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EXAMINER

GENCO, BRIAN C

ART UNIT PAPER NUMBER

2615

DATE MAILED: 06/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/210,721

Applicant(s)

FUSHIMOTO, HIDEO

Examiner

Brian C Genco

Art Unit

2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

Art Unit: 2615

Applicant's amendment filed May 2, 2003 has been fully considered by the examiner but has not been deemed persuasive.

Applicant argues that Murphy does not disclose that a user is able to designate an arbitrary point to be linked to an image to be taken, or to control the linking of the taken image to the designated point.

In response, Examiner notes that, as was asserted in the previous Office Action, Murphy discloses designating an arbitrary point to be linked to an image is controlled by a user moving to the location corresponding to that point and subsequently taking a picture. Therefore the very act of taking a picture is the designating means, wherein this is preformed by user input, namely pressing the shutter button. As such all of the claim limitations are still taught by Murphy.

*Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 3, 5, 6, 9-12, 14, and 17-19 are rejected under 35 U.S.C. 102(b) as being anticipated by (USPN 5,488,558 to Ohki).

In regards to claim 1 Ohki discloses an image pickup apparatus comprising:

an image sensor (e.g., element 21 of Fig. 2);

storage means for storing predetermined data (e.g., column 8, lines 18-20);

Art Unit: 2615

display means for displaying the predetermined data stored in said storage means (e.g., column 8, lines 38-39);

designation means for designating by user input an arbitrary point which is to be linked to an image to be taken on the predetermined data displayed on said display means (e.g., column 5, lines 30-37; column 8, lines 38-61); and

generation means for generating link information such that an image is taken by said image sensor after the arbitrary point is designated by said designation means, and then link information is generated which represents that the taken image is linked to the arbitrary point designated by said designation means (e.g., column 8, line 62 – column 9, line 17).

In regards to claim 2 Ohki discloses an image pickup apparatus according to claim 1, further comprising addition means for adding the link information generated by said designation means to the predetermined data or the taken image (e.g., column 8, line 62 – column 9, line 17, wherein the addition means adds the link information to the taken image).

In regards to claim 3 Ohki discloses an image pickup apparatus according to claim 1, wherein said storage means further stores the image taken by said image sensor (e.g., column 8, line 18 – column 9, line 17; Examiner notes that Ohki discloses that both the predetermined data and the image data can be recorded on the IC card; column 8, lines 1-8; column 9, lines 60-64).

In regards to claim 5 Ohki discloses an image pickup apparatus according to claim 1, wherein the predetermined data is data representing a map (e.g., column 11, lines 25-40).

In regards to claim 6 Ohki discloses an image pickup apparatus according to claim 3, wherein images may be stored in said storage means in hierarchical fashion according to the link

Art Unit: 2615

information and/or such that the images are linked to each other (e.g., Ohki discloses that the images are linked with each other; column 8, line 62 – column 9, line 17).

In regards to claim 9 Ohki discloses an image pickup apparatus according to claim 1, wherein the predetermined data stored in said storage means is the image taken by said image sensor or an image input from an external device (e.g., Examiner notes that the predetermined data is input from an external device, namely from the computer 70; column 9, lines 40-64).

In regards to claim 10 Ohki discloses an image pickup apparatus according to claim 1, wherein the link information generated by said generation means includes information indicating the arbitrary point designated by said designation means and also includes identification information of the image taken by said image sensor (e.g., column 11, lines 51-57).

In regards to claim 11 see examiners notes on the rejection of claim 1.

In regards to claim 12 see examiners notes on the rejection of claim 2.

In regards to claim 14 see examiners notes on the rejection of claim 5.

In regards to claim 17 see examiners notes on the rejection of claims 9 and 11.

In regards to claim 18 see examiners notes on the rejection of claims 10 and 11.

In regards to claim 19 Ohki discloses a storage medium storing a program for executing the method of controlling an image pickup apparatus according to claim 11 (e.g., column 6, lines 25-42).

Claims 1-21 are rejected under 35 U.S.C. 102(e) as being anticipated by (USPN 6,282,362 to Murphy et al).

Art Unit: 2615

In regards to claim 1 Murphy et al, herein Murphy, discloses an “image sensing means” (column 8, line 66 – column 9, line 8); a “storage means for storing predetermined data” (column 15, lines 18-20, 30-36), wherein the “predetermined data” is the map data base; “display means” (element 340 of Fig. 2); “designation means” (column 14, lines 35-40; column 9, line 62 – column 10, line 12; column 16, lines 62-65), wherein a user designates a point on the pre-stored map by moving to that location and taking a picture; and “generation means” (column 9, line 62 – column 10, line 5; column 11, lines 49-58), namely generating position and time data associated with the image.

Note that Murphy discloses two different “designation means” for performing the same operation. In the recording mode the “designation means” is controlled by the location of the camera generated by the GPS system and displayed in the form of an icon as discussed above for designating a location on a map to link image data in the form of a hyperlink. In the playback mode the “designation means” is a cursor used to designate a hyperlink to bring up image data for that location on the map (column 10, lines 61-65). Examiner is defining both of these control systems as a whole as the claimed “designation means.”

In regards to claim 2 see examiners notes on the rejection of claim 1. Murphy discloses the “addition means” (column 10, lines 45 – 65; column 11, line 59 – column 12, line 11) wherein the link information is added to the map by the use of an icon.

In regards to claim 3 Murphy discloses that the playback unit downloads the image data for viewing, or in other words “stores the image taken by said image sensing means” (column 10, lines 1-5).

In regards to claim 4, by the very nature of the designation means, as defined by the examiner above, if multiple images are taken at the same location then they are linked to the same point. Only when the user moves to a new location are the images linked with another point because the new location designates a new point on the map. Note that Murphy discloses the ability to take continuous and sequential images (column 12, line 49 – column 13, line 54).

In regards to claim 5 see examiners notes on the rejection of claim 1.

In regards to claim 6 see examiners notes on the above rejections. Murphy discloses the ability to display the image data in lists or “hierarchy fashion according to said link information” (column 10, line 66 – column 11, line 6).

In regards to claim 7 see examiners notes on the rejection of claim 1.

In regards to claim 8 see column 11, line 66 – column 12, line 11.

In regards to claim 9 see examiners notes on the rejection for the above claims.

In regards to claim 10 see examiners notes on the rejection for the above claims. Note that Murphy discloses the association of “identification information” such as time information and index information with the link information.

In regards to claim 11 see examiners notes on the rejection of claim 1.

In regards to claim 12 see examiners notes on the rejection of claim 2.

In regards to claim 13 see examiners notes on the rejection of claim 4.

In regards to claim 14 see examiners notes on the rejection of claim 5.

In regards to claim 15 see examiners notes on the rejection of claims 7 and 11.

In regards to claim 16 see examiners notes on the rejection of claims 8 and 11.

In regards to claim 17 see examiners notes on the rejection of claims 9 and 11.

Art Unit: 2615

In regards to claim 18 see examiners notes on the rejection of claims 10 and 11.

In regards to claims 19-21 note that Murphy discloses the use of a microprocessor and stored programs in order to control the disclosed invention (column 15, lines 14-20).

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 4, 7, 8, 13, 15, 16, 20, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over (USPN 5,488,558 to Ohki) in view of (USPN 6,282,362 to Murphy et al).

In regards to claim 4 Ohki does not disclose nor preclude generating link information such that any taken image is linked to the same point as an immediately previous point unless another point is designated by said designation means.



Murphy discloses a designation means wherein a GPS system tracks the location of the camera and automatically links images taken at a specific location to a map of that location. Examiner notes that Murphy's invention simply makes the process of Ohki's invention automatic. As such, it would have been obvious to one of ordinary skill in the art at the time of the invention to have made Ohki's invention automatic since it has been held that broadly providing a mechanical or automatic means to replace manual activity which has accomplished the same result involves only routine skill in the art. *In re Venner*, 120 USPQ 192. Further, it would have been obvious to one of ordinary skill in the art at the time of the invention to have made Ohki's invention automatic in order to allow for easier operation by the user. As such, by the very nature of the designation means if multiple images are taken at the same location then they are linked to the same point. Only when the user moves to a new location are the images linked with another point because the new location designates a new point on the map.

In regards to claim 7 see examiners notes on the rejection of claim 4. Examiner notes that by automating Ohki's invention the designation means is preformed by initiating image capture.

In regards to claim 8 Ohki does not disclose nor preclude recalling taken images for display based on designating a point on the predetermined data which is linked to an image. Murphy discloses placing hyperlinks on the predetermined data at points with linking information as well as reviewing the images taken by selecting the hyperlinks located on the predetermined data, column 11, line 66 – column 12, line 11. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have added hyperlinks,

Art Unit: 2615

or other such linking icons, to Ohki's invention in order to enable easier recall of images and data as was a main objective of Ohki's invention.

In regards to claims 13, 15, and 16 see examiners notes on the rejection of claims 4, 7, and 8 respectively as well as claim 11.

In regards to claims 20 and 21 see examiners notes on the rejection of claims 13, 16, and 19.

### *Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian C. Genco who can be reached by phone at 703-305-7881 or

Art Unit: 2615

by fax at 703-746-8325. The examiner can normally be reached on Monday thru Friday 8:00am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Christensen can be reached on 703-308-9644. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the technology center 2600 customer service office whose telephone number is 703-306-0377.

Brian C Genco  
Examiner  
Art Unit 2615

June 5, 2003



ANDREW CHRISTENSEN  
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